

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
SHAWN LOVE FITZGERALD, JR.,	:	
	:	
Plaintiff,	:	
	:	20-CV-7507 (VSB) (SLC)
- against -	:	
	:	<b><u>ORDER</u></b>
	:	
COMMISSIONER OF SOCIAL SECURITY,	:	
	:	
Defendant.	:	
-----X	:	

VERNON S. BRODERICK, United States District Judge:

On September 10, 2020, Plaintiff Shawn Love Fitzgerald, Jr. (“Plaintiff” or “Fitzgerald”) filed this action pursuant to Section 205(g) of the Social Security Act (the “Act”), as amended, 42 U.S.C. § 405(g) seeking judicial review of the decision by the Commissioner of Social Security (“Defendant” or “Commissioner”) denying his applications for Supplemental Security Income and Disability Insurance Benefits under the Act. (Doc. 2.) On September 15, 2020, I referred this case to Magistrate Judge Sarah L. Cave. (Doc. 6.)

On September 19, 2022, Defendant filed a motion for judgment on the pleadings, (Doc. 14), and a memorandum of law in support, (Doc. 15). Plaintiff, however, failed to file any opposition papers or seek additional time to file an opposition. On December 2, 2022, Judge Cave ordered Plaintiff to show cause why (i) he failed, without explanation, to file opposition papers, and (ii) why she should not dismiss the action for failure to prosecute. (Doc. 20.) In the order to show cause, Judge Cave cautioned Plaintiff that failure to comply with the order would result in her recommending dismissal of this action. (*Id.* at 2.)

On January 3, 2023, Judge Cave issued a thorough Report and Recommendation (“Report” or “R&R”) recommending that “this action be dismissed without prejudice pursuant to Rule 41(b).” (Doc. 21 at 4.) Neither party filed any objections to the Report and Recommendation.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985).

I have reviewed Judge Cave’s detailed and well-reasoned Report for clear error and, after careful review, find none. I therefore ADOPT the Report and Recommendation in its entirety.

The Clerk of Court is respectfully directed to mail this Order to Plaintiff’s last known address. The Clerk of Court is also respectfully directed to terminate any open motions and to close this case.

SO ORDERED.

Dated: April 11, 2024  
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, flowing style.

Vernon S. Broderick  
United States District Judge